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Appl. No. 10/826,733  
Reply to Office Action of March 9, 2006

AUG 09 2006

REMARKS

Applicants thank the Examiner for acknowledging receipt of Applicants' foreign priority document that has been submitted pursuant to 35 U.S.C. § 119.

Applicant respectfully requests reconsideration of the prior art rejections set forth by the Examiner under 35 U.S.C. §103(a). Applicant respectfully submits that the prior art references of record, whether considered alone, or in combination, fail to either teach or suggest Applicant's presently claimed invention as amended.

Applicant has amended claims 1 and 5 such that claims 1 and 5 now include the limitation that the recording medium includes a protective layer which has a refractive index larger than a numerical aperture of the objective lens. Thus, claims 1 and 5 now include the limitation previously presented in claims 3 and 4. Neither Knight nor Okubo discloses a protective layer over a silicon layer wherein the refractive index of the protective layer is larger than the numerical aperture lens.

Although the Examiner indicated that the recording layer of Knight could be formed from silicon as taught by Okubo, Okubo does not teach that the silicon layer is positioned nearest the light irradiation side of the medium as required by claims 1 and 5. Furthermore, neither Okubo nor Knight teaches or suggests providing a protective layer on the silicon layer as also required by claims 1 and 5. This change would not be obvious to one skilled in the art.

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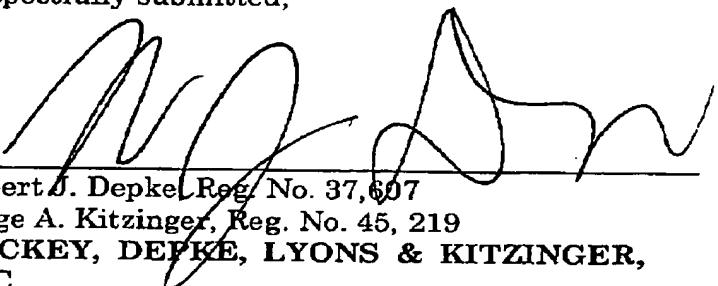
Because claims 1 and 5 are neither anticipated nor rendered obvious by the cited art, Applicant respectfully requests consideration and allowance of amended claims 1 and 5.

Newly Added Claims

Claims 6 and 7 provide that the protective layer is made from material selected from the group consisting of HfO<sub>2</sub>, ZrO<sub>2</sub>, Ta<sub>2</sub>O<sub>5</sub>, aluminum nitride, boron nitride and diamond. The references cited do not disclose or suggest a protective layer made from the materials provided in claim 6 and 7. Neither claim 6 nor claim 7 are anticipated or rendered obvious by the prior art. Applicant respectfully requests consideration and allowance of claims 6 and 7.

Respectfully submitted,

Date: 8/9/06

  
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